

XII-189 / (Jail)
C. J. P. R. 11/94/2,000



CEA 1974/96

APPEAL OF PRISONER

Division Bench (Criminal)

No. 3584/51 Name शिवशंकर कुमार
Father's name रामशिवलाल शर्मा
Residence पिपलासपुर 18-5-1 Age 35 वर्ष
Sentenced to आजीवन कारावास On 7-3-96
Under section 302, 304, 305 by जति सत्र न्यायाधीश, सक्ती, पिपलासपुर

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the case for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not be heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

- 1 Date of Application for copy of Judgement
- 2 Date on which copy received 24/7/96
- 3 Date on which Appeal sent 1/7/96
- 4 Whether the prisoner wishes to be represented or not - Yes / No

No. 3584/51 Name शिवशंकर कुमार आ. रामशिवलाल
Confined in पे. सी. जेल Jail पिपलासपुर
No. 690 Dated 5/8/1996
Forwarded to the CHIEF JUDICIAL MAGISTRATE माननीय जति सत्र न्यायाधीश, सक्ती, पिपलासपुर
together with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

Superintendent

Date of receipt in office पिपलासपुर 7/3/96
Date of receipt record to accompany the 5/7/96
Memo of Appeal to the Appellate court March - 23
April - 30
May - 31
No. Dated 1996 June - 30
Forwarded to the

Date of receipt in Appellate Court

High Court of Madhya Pradesh
JABALPUR

1/1 AUG 1996

442

(P. T. 0.10)

आदेश पत्रक

मामला क्रमांक Cr. A. 1974/196 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>HIGH COURT OF CHHATTISGARH AT BILASPUR</u> <u>DIVISION BENCH : HON'BLE SHRI L.C.BHADOO</u> <u>& HON'BLE SHRI DHIRENDRA MISHRA, JJ</u> Criminal Appeal No. 1974 of 1996 Appellant : Ashok Kumar Vs. Respondent : State of Madhya Pradesh Shri C.R. Sahu, learned counsel for the accused/appellant. Shri Akhil Mishra, learned P.L. for the State/respondent. <u>ORAL JUDGMENT</u> <u>(08.03.2006)</u> <u>Per L.C.Bhadoo, J</u> By this appeal under Section 374(2) of the Code of Criminal Procedure accused/appellant Ashok Kumar has questioned the legality and correctness of the judgment of conviction and order of sentence dated 07.03.1996 passed by Additional Sessions Judge, Sakti, Bilaspur in S.T.No. 29/95 whereby the learned Additional Sessions Judge, after holding the accused/appellant guilty for commission of the offence under Section 302 of the Indian Penal Code sentenced him to undergo imprisonment for life. 2. The case of the prosecution, in brief, is that about one year prior to the date of incident i.e. 17.11.1994 accused ousted his wife from his house after beating her and he used to beat his children also. The wife of	

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आदेश पत्रक

मामला क्रमांक Cr. A. No. 1974/96 सन् 2000

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	the accused lodged a criminal complaint against him for the commission of offence under Section 498-A of the IPC. On the fateful day i.e. 17.11.1994 the accused assaulted his elder daughter namely Rani, aged about 9 years, with club and kicks on the ground that she used to play with his papers and throw it here and there which were kept in his suitcase. The matter was reported to the police station - Jaijaipur under P-6. After registering the case the Investigating Officer reached to the place of occurrence and prepared the site plan-9 of the place of occurrence. He took into possession the clothes of the ^{deceased} accused which were received from the doctor under P-7. After giving notice P-4 to the Panchas he prepared Panchanama P-5 of the body of deceased Rani. Based on the memorandum of accused P-2, he took into possession two wooden clubs under P-1. The body of deceased Rani was sent for postmortem examination to Primary Health Centre, Jaijaipur under P-10 where Dr. Saroj Kachchhap conducted the postmortem on the body of deceased Rani and prepared the postmortem report P-11. Babool wooden stick and Nengur wooden lathi - the weapons of offence, were sent for opinion of the doctor under P-13 and the doctor gave her opinion that the injuries found on the body of deceased Rani could be caused by the above mentioned objects. After completion of the investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Sakit who in turn committed the case to the Sessions Judge, Bilaspur from where learned Additional Sessions Judge, Sakit received the case on transfer for trial. 3. The prosecution in order to establish the charge against the accused/appellant examined 14 witnesses. On the other hand, statement of the accused was recorded under Section 313 of the Code of Criminal Procedure in which he denied the material appearing against him in the	

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आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	prosecution evidence and stated that he is innocent and has been falsely implicated in the crime. Learned Additional Sessions Judge after hearing the arguments of the respective counsel convicted and sentenced the accused/appellant as mentioned in paragraph -1 of this judgment. 4. We have heard Shri C.R.Sahu, learned counsel appearing on behalf of the accused/appellant and Shri Akhil Mishra, learned P.L. on behalf of the State/respondent. 5. Homicidal death of deceased Rani is not in dispute. 6. As far as involvement of the accused/appellant in the crime in question is concerned, PW-1 Mahesh Kumar who witnessed the crime has stated that at about 7.00-7.30 p.m. when he was passing through the road on which the house of accused was existing he saw that the accused was assaulting his elder daughter with club and kicks, however, he went to his house thereafter. Later on he came to know that the daughter of Ashok Kumar to whom he was beating, has died, on which brother of Ashok Kumar went to lodge the report. In his cross-examination he has stated that on suspicion the accused closed the door at the time of assaulting his daughter and opened the door thereafter. He saw the accused assaulting his daughter. PW-2 Hemlal has corroborated the above evidence and stated that on the fateful day when he was coming towards the vicinity he saw that the accused was attacking his daughter Rani with club and kicks and when he returned in the night he came to know that the daughter of Ashok Kumar has died. In the cross-examination he has stated that the accused had two daughters and the accused was assaulting Rani in the front room. PW-3 Umesh Kumar has stated that he lodged the report in the police station - Jaijaipur. The evidence of the above witnesses stands	

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आदेश पत्रक

मामला क्रमांक C.A. 1274/26 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	corroborated by the evidence of PW-7 Dr. (Ku.) Saroj Kachchhap who has stated that there were 14 injuries on the body of Rani. On dissection she found that the brain was congested, left lung was congested in which clotted blood was present and the vesicles of the same were ruptured. On dissection of the lung she found froth mixed blood in the lung and the right compartment of the heart was filled with blood whereas the left was empty. The large intestine was full of blood. She has opined that on account of injury No. 1, 2 and 3 the death was possible and the cause of death was asphyxia on account of injury No. 1, 2 and 3 on the chest and lung. She has further opined that all the injuries present on the body of deceased were ante-mortem in nature and the same could be caused by Babool stick and Nengur stick which were sent to her for examination. 7. Therefore, for the foregoing discussion, we are of the considered opinion that involvement of the accused in the crime in question attacking the deceased Rani with Babool club and Nengur stick as a result of which she succumbed to the injuries, is established. 8. As far as intention of the accused to cause death of Rani is concerned, looking to the manner in which the offence was committed upon a girl child aged about 9 years and the parts of the body where the accused inflicted as many as 14 injuries, it is established that the accused assaulted deceased Rani with an intention to cause her death. 9. In view of the above, we do not find any illegality or infirmity in the judgment of the trial Court. The appeal being devoid of merits deserves to be dismissed and the same is hereby dismissed.	
	Sd/- L.C. BHADOO Judge	Sd/- DHIRENDRA MISHRA Judge

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